

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CEQUENT TRAILER PRODUCTS, INC., :

CASE NO. 1:05-CV-2566

Plaintiff, :

vs. :

OPINION & ORDER
[Resolving Docs. No. 43, 48]

INTRADIN (SHANGHAI)
MACHINERY CO., LTD., :

Defendants. :

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

With this Order, the Court decides whether to adopt the Magistrate Judge's Report and Recommendation on Plaintiff's motion for sanctions against Defendant. [Docs. 43, 48.] For the reasons presented below, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge and finds as moot Plaintiff's motion for sanctions. [Docs. 43, 48.]

I. Background

On October 9, 2006, Plaintiff filed its motion. [Doc. 43.] On October 11, 2006, the Court referred Plaintiff's motion to Magistrate Judge James Gallas for a Report and Recommendation. [Doc. 45.] On October 16 and 18, 2006, Magistrate Gallas held telephone conference calls attended by Plaintiff's and Defendant's counsel. [Docs. 46, 47.] On October 18, 2006, Magistrate Gallas recommended that the Court find as moot Plaintiff's motion for sanctions because Defendant will no longer defend in this case. [Doc. 48.] On October 25, 2006, Defendant indicated directly to the Court that it would no longer defend in this case. [Doc. 54.]

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II. Legal Standard

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of the Report to which an objection has been made. *See* 28 U.S.C. § 636(b)(1). Any objections must be filed with the Clerk of Court within ten days of the report's issuance. *Id.* Parties waive their right to appeal the Recommendation if they fail to object within the time allowed. *See, e.g., Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

III. Analysis

Here, more than ten days have elapsed from the issuance of Magistrate Judge Gallas' Report and Recommendation and neither party objects to his Recommendation. Having conducted its own review of the facts and findings in the case, the Court agrees with the conclusion of Magistrate Judge Gallas and adopts the Report and Recommendation as its own. Therefore, the Court incorporates Magistrate Judge Gallas findings of fact and conclusions of law fully herein by reference. Accordingly, the Court finds as moot Plaintiff's motion for sanctions.

IV. Conclusion

For the reasons discussed above, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge and finds as moot Plaintiff's motion for sanctions. [Docs. 43, 48.]

IT IS SO ORDERED.

Dated: November 6, 2006

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE